

ASSEMBLY BILL

No. 1690

**Introduced by Assembly Member Leno
(Coauthor: Assembly Member Lieber)**

February 21, 2003

An act to add Article 4 (commencing with Section 55650) to Chapter 4 of Part 2 of Division 2 of Title 5 of the Government Code, and to amend Section 17041.5 of, and to add Section 99.3 to, the Revenue and Taxation Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1690, as introduced, Leno. Fire protection finance agencies.

Under existing law, local fire protection services may be provided by, among other entities, a fire protection district, which may comprise territory including cities or counties, by a fire department or company organized in an unincorporated town, or by a fire department established by a city or county.

This bill would authorize any city, county, or city and county to form a fire protection finance agency for the purposes of supplementing fire protection services and financing needed capital improvements for its fire department or for any other public agency that provides fire protection services within its boundaries.

Existing law provides that, with the exception of a business license tax, a city, county, city and county, or any other local entity may not impose or collect a local income tax.

This bill would authorize any city, county, or city and county that forms a fire protection finance agency to levy a local general income tax, if that tax is approved by a majority of the voters voting on that tax.

This bill would also require, in the case of a local government that has both formed a fire protection finance agency and adopted a local income tax, that property tax revenue be annually assigned to the fire protection finance agency, from the forming local government, in an amount that is equal to 30% of the amount of revenues estimated to be collected from the local income tax in the first 12 months of imposition.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Article 4 (commencing with Section 55650) is added to Chapter 4 of Part 2 of Division 2 of Title 5 of the Government Code, to read:

Article 4. Fire Protection Finance Agencies

55650. (a) Any city, county, or city and county may form, by ordinance, a fire protection finance agency for the purpose of supplementing fire protection services and financing needed capital improvements for its fire department or other outside agency that provides fire protection services within the boundaries of that city, county, or city and county.

(b) In the case of a city, county, or city and county that does not provide its own fire protection services, all funds of the fire protection finance agency formed pursuant to this section shall be made available only to the outside agency that provides structural fire protection services within the boundaries of that city, county, or city and county.

(c) When a decision, determination, or other action by the fire protection finance agency formed pursuant to this section is required by this article, the governing body of that agency may not delegate the obligation to decide, determine, or act to another entity, unless this article specifically provides for that delegation.

(d) A fire protection finance agency formed pursuant to this section may, in addition to any funds provided by the city, county, or city and county that formed the district, accept financial assistance from the state or federal government or any public or private source for any purpose set forth in subdivision (a).

(e) All funds of a fire protection finance agency formed pursuant to this section shall be held in trust for the purposes set forth in subdivision (a) and may not be utilized to supplant other funds applied to fire protection.

SEC. 2. Section 99.3 is added to the Revenue and Taxation Code, to read:

99.3. For the purposes of the computations required by this chapter:

(a) If a fire protection finance agency is formed by a city, county, or city and county ordinance pursuant to Section 55650 of the Government Code and is located within a city, county, or city and county for which an income tax authorized by subdivision (b) of Section 17041.5 has been approved by the voters, the auditor shall assign to that fire protection finance agency that portion of the annual property tax revenue allocation determined pursuant to Section 96 or 96.1 for that city, county, or city and county in an amount equal to 30 percent of the amount estimated by the Franchise Tax Board pursuant to subdivision (c) to be collected on behalf of the city, county, or city and county during the first 12 months in which the income tax is imposed.

(b) Upon the approval of an income tax authorized by subdivision (b) of Section 17041.5, the imposing city, county, or city and county shall give notice of that approval to the Franchise Tax Board, and to the assessor and auditor of the county within which the territory subject to the fire protection finance agency is located. This notice shall specify the city, county, or city and county that has approved the imposition of the income tax.

(c) The board shall, within 60 days of notice of the approval of the tax authorized by subdivision (b) of Section 17041.5, estimate, based upon historical data on state income tax collections for residents of that city, county, or city and county, the amount of tax to be collected on behalf of the city, county, or city and county in the first 12 months in which that tax is imposed. The board shall notify the county auditor of its estimate.

(d) (1) The county assessor shall provide to the county auditor, within 30 days of the notice of approval of an income tax authorized by subdivision (b) of Section 17041.5, a report that identifies the assessed valuations for the tax rate areas within the jurisdiction of the fire protection finance agency.

1 (2) The auditor shall estimate the amount of property tax
2 revenue derived from the tax rate areas that are within the
3 jurisdiction of the fire protection finance agency.

4 (3) The auditor shall estimate that portion of the property tax
5 revenue determined pursuant to paragraph (2) that is to be assigned
6 to the fire protection finance agency pursuant to subdivision (a).

7 (4) The auditor shall, within 45 days of receipt of the notice
8 under subdivision (c), notify the governing body of the city,
9 county, or city and county that formed the fire protection finance
10 agency of the assignment to be made pursuant to subdivision (a).

11 SEC. 3. Section 17041.5 of the Revenue and Taxation Code
12 is amended to read:

13 17041.5. ~~Notwithstanding~~ (a) *Except as provided in*
14 *subdivision (b), notwithstanding any statute, ordinance,*
15 *regulation, rule or decision to the contrary, no city, county, city and*
16 *county, governmental subdivision, district, public and*
17 *quasi-public corporation, municipal corporation, whether*
18 *incorporated or not or whether chartered or not, shall levy or*
19 *collect or cause to be levied or collected any tax upon the income,*
20 *or any part thereof, of any person, resident or nonresident.*

21 ~~This~~

22 (b) (1) *Any city, county, or city and county that has formed a*
23 *fire protection finance agency by ordinance pursuant to Section*
24 *55650 of the Government Code may levy a general tax upon the*
25 *taxable income of any person residing therein for each taxable*
26 *year beginning on or after January 1, 2004. The tax may not*
27 *exceed an amount equal to the net tax imposed under Section*
28 *17039 multiplied by:*

29 (A) *Eight percent with respect to a tax levied by a city.*

30 (B) *Two percent with respect to a tax levied by a county.*

31 (C) *Ten percent with respect to a tax levied by a city and county.*

32 (2) *Any ordinance or resolution adopted by a city, county, or*
33 *city and county for the purpose of levying of a tax on income shall*
34 *be subject to approval by a majority of the voters voting on that*
35 *issue at an election.*

36 (3) *A tax imposed under this subdivision shall be administered*
37 *and collected by the board, in the same manner as taxes are*
38 *administered and collected pursuant to Part 10.5 (commencing*
39 *with Section 18401).*

1 (4) *The board shall remit the taxes collected, less the board's*
2 *costs of administration, within 60 days after those revenues are*
3 *reported and collected.*

4 (c) ~~This section shall~~ *may not be construed so as to prohibit the*
5 *levy or collection of any otherwise authorized license tax upon a*
6 *business measured by or according to gross receipts.*

